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OFFICE OF PETITIONS

In re Application of :
Visco et al. : DECISION ON PETITION
Application No. 10/772,157 : TO MAKE SPECIAL
Filed: February 3, 2004 : 37 CFR 1.102(c)
Attorney Docket No. PLUSP036 :

This is a decision on the petition under 37 CFR 1.102(c)(2)(i), filed January 27, 2006, to make the above-identified application special based on the invention materially enhancing the quality of the environment as set forth in M.P.E.P. § 708.02, Section V and under 37 CFR 1.102(c)(2)(ii) to make the above-identified application special based on the invention materially contributing to the development or conservation of energy resources as set forth in M.P.E.P. § 708.02, Section VI.

The petition under 37 CFR 1.102(c)(2)(i) is **DISMISSED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(2)(i) and MPEP § 708.02, Section V: Environmental Quality, must state that special status is sought because the invention materially enhances the quality of the environment by contributing to the restoration or maintenance of basic life-sustaining natural elements. If the disclosure is not clear on its face that the claimed invention materially enhances the quality of the environment by contributing to the restoration or maintenance of one of the basic life-sustaining natural elements, the petition must be accompanied by a statement by the applicant, assignee, or an attorney/agent registered to practice before the Office explaining how the materiality standard is met. No fee is required.

The petition states, "... the invention will materially enhance quality of the environment at least because, lithium metal batteries, a preferred embodiment of the present invention, do not include toxic heavy metals such as cadmium and lead found in some other commercially important batteries." Applicant's invention is considered to be merely ancillary to the possibly maintenance of the basic life-sustaining elements. There is no factual evidence that the invention "materially enhances the quality of the environment of mankind by contributing to the restoration or maintenance of the basic life-sustaining natural elements." The contribution of petitioner's invention, while beneficial to the environment, does not rise to the level intended by the Rule.

The petition under 37 CFR 1.102(c)(2)(ii) is **DISMISSED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(ii) and MPEP § 708.02, Section VI: Energy, must state how the invention materially contributes to (A) the discovery or development of energy resources, or (b) the more efficient utilization and conservation of energy resources. If the disclosure is not clear on its face that the claimed

invention materially contributes category (A) or (B), the petition must be accompanied by a statement by the applicant, assignee, or an attorney/agent registered to practice before the Office explaining how the materiality standard is met. Examples of inventions in category (A) would be developments in fossil fuels (natural gas, coal, and petroleum), hydrogen fuel technologies, nuclear energy, solar energy, etc. Category (B) would include inventions relating to the reduction of energy consumption in combustion systems, industrial equipment, household appliances, etc. No fee is required.

The petition states, "Because such electricity can be produced from a variety of resources, including fossil fuels, it is believed that the present invention could well contribute to the development of existing and alternative energy resources as well as the conservation of energy resources by reducing the need for less efficient power sources that consume a disproportionate amount of energy resources for the energy actually produced." This statement lacks any specifics about how the claimed invention materially contributes to items (A) or (B), above, and the above statement is inadequate to establish for the record that the invention "materially contributes to the more efficient utilization and conservation of energy resources."

Further correspondence with respect to this matter should be addressed as follows:

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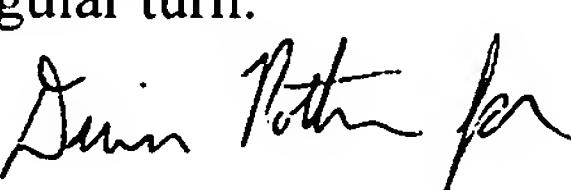
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By FAX: (571) 273-8300

Telephone inquiries concerning this decision should be directed to Petitions Examiner Liana Chase at 571-272-3206.

All other inquiries concerning either the examination or status of the application should be directed to the Technology Center.

This matter is being referred to the Technology Center Art Unit 1746 for action in its regular turn.


David Bucci
Petitions Examiner
Office of Petitions